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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  40046-306195	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____		Application Number  10/719,066	
		Filed  November 24, 2003	
		First Named Inventor  CARTER ET AL.	
		Art Unit  3738	Examiner  Stewart, Alvin J.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

attorney or agent of record.      44,482

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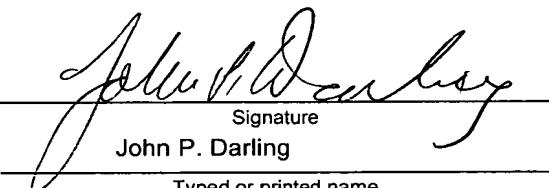
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September 29, 2006

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

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\_\_\_\_\_  
Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket: 040046-0306

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:  
CARTER et al.

Application No.: 10/719,066

Confirmation Number: 9145

Group Art Unit: 3738

Filed: November 24, 2003

Examiner: Stewart, Alvin J.

Title: STENT

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Further to the Notice of Appeal filed herewith, Applicants respectfully request review of the rejection of claims 1-39 under 35 U.S.C. § 103(a) over Mitchell et al. (U.S. Patent 6,214,037) in view of Zimmon (U.S. Patent 5,052,998) and Finney (U.S. Patent 4,307,723).

Claims 1 and 27 each recite, *inter alia*, at least one conically tapered tip portion disposed at an end of the body.

The Examiner acknowledges that neither Mitchell et al. nor Zimmon disclose or suggest at least one conically tapered tip portion disposed at an end of the body, but alleges that Finney teaches a stent comprising a plurality of channels formed between two conically tapered tip portions disposed at each end of a body having an atraumatic tip. It is respectfully submitted that Finney do not disclose or suggest any conically tapered tip portion, and in fact teach away from such a feature.

As disclosed in column 4, lines 18-19, the stent 10 is provided with both ends 11 and 12 closed. The distal end 12 is clipped and the wire stylet 21 is introduced into the lumen 23 and passed through substantially the full length of the stent 10 to straighten out both hooks 13 and 14. Column 4, lines 22-26. As further disclosed in column 4, lines 43-45, the stent is of substantially uniform diameter (i.e. does not have a conically tapered tip portion) with both ends smoothly closed and without flanges or barbs or other protrusions.

As the last passage of Finney discussed above clearly indicates, Finney clearly teaches away from any use of a flange or barb, such as used by Zimmon. In other words, Finney clearly teaches away from any combination with Zimmon.

As neither Mitchell et al., Zimmon, or Finney discloses or suggests at least one conically tapered tip portion disposed at an end of the body, the combination fails to include all the claim limitations and fails to present a *prima facie* case of obviousness. See MPEP § 2143.

As Finney clearly teaches away from any combination with, at least, Zimmon, there is no teaching, suggestion, or motivation, either within the references themselves, or within the knowledge generally available to one of ordinary skill in the art, to combine the references in the manner proposed by the Examiner. Accordingly, the combination fails to present a *prima facie* case of obviousness.

Applicants appreciate the indication that claims 11, 16, 19, 20, 26 and 32 define patentable subject matter. However, in view of the above amendments and remarks, Applicants respectfully submit that all the claims are allowable and that the entire application is in condition for allowance.

Respectfully submitted,  
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